

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA
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300 Las Vegas Boulevard South
Las Vegas, NV 89101

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U.S. BANKRUPTCY COURT
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John Hinderaker
LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

In re: USA COMMERCIAL MORTGAGE COMPANY
Jointly Administered Case No. BK-S-06-10725 LBR
Date / Time of Hearing: 02/05/10 at 9:30 am

OBJECTION OF VOSS FAMILY TRUST TO REDUCE CLAIM (# 10725-01653) (IN CONJUNCTION WITH OBJECTION OF USACM TRUST TO PROOFS OF CLAIM BASED, IN WHOLE OR IN PART, UPON INVESTMENT IN THE ASHBY FINANCIAL COMPANY – \$7,200,000 LOAN, E-FILED ON 1/8/10, DOCUMENT # 7933)

OBJECTION OF VOSS FAMILY TRUST TO REDUCE CLAIM (# 10725-01653) (IN CONJUNCTION WITH OBJECTION OF USACM TRUST TO PROOFS OF CLAIM BASED, IN WHOLE OR IN PART, UPON INVESTMENT IN THE PALM SPRINGS MARQUIS HOTEL LOAN, E-FILED ON 1/8/10, DOCUMENT # 7918)

OBJECTION OF VOSS FAMILY TRUST TO REDUCE CLAIM (# 10725-01653) (IN CONJUNCTION WITH OBJECTION OF USACM TRUST TO PROOFS OF CLAIM BASED, IN WHOLE OR IN PART, UPON INVESTMENT IN THE WASCO INVESTMENTS, LLC LOAN, E-FILED ON 1/8/10, DOCUMENT # 7931)

OBJECTION OF VOSS FAMILY TRUST TO REDUCE CLAIM (# 10725-01653) (IN CONJUNCTION WITH OBJECTION OF USACM TRUST TO PROOFS OF CLAIM BASED, IN WHOLE OR IN PART, UPON INVESTMENT IN THE ONE POINT STREET, LLC – HFA NORTH YONKERS LOAN, E-FILED ON 1/8/10, DOCUMENT # 7910)

We herewith object to the USACM Trust motions seeking an order to reduce our claim (claim no. 10725-01653 / 02559) by \$32,500 for Ashby Financial, \$25,000 for Palm Springs Marquis Hotel, \$22,500 for Wasco Investments, and \$31,250 for HFA – North Yonkers loans for the following reasons:

SCANNED

OVERALL CLAIM BASED ON TOTAL PORTFOLIO, NOT INDIVIDUAL LOANS

While we confirm that our investments in the four loans mentioned above have been paid back in full, our overall claim was calculated, based on an estimated combined loss of 25% for the entire portfolio. This assumed that some loans (such as Ashby, Marquis Hotel, Wasco, and North Yonkers) would be paid back in full while other loans would recover a substantially lower amount so that OVERALL the loss was estimated to amount to 25%. This means that our claim is not based on and does not contain an Ashby, Marquis Hotel, Wasco, and North Yonkers specific loss. Therefore, the amounts of \$32,500 (Ashby), \$25,000 (Marquis), \$22,500 (Wasco), and \$31,250 (Yonkers) listed under column "Approximate Amount Subject to Objection" in the respective Exhibits A, are artificial, and should read "0" or "N/A".

USACM TRUST MOTION IS PREMATURE

Since many loans have not yet been resolved, the ultimate loss is unknown and still subject to estimates. Therefore, asking for a claim reduction at this time is premature. In fact, the combined loss might be significantly higher than previously estimated. We, therefore, reserve the right to increase the claim, once the exact amount is known.

CONCLUSION/MOTION TO REDUCE UNNECESSARY ADMINISTRATIVE BURDEN

USACM Trust has already filed the same motions in 2008. Upon our objections, USACM Trust withdrew its motions with regard to our loans, and promised to adjust its records (as an example see attached document # 6038, e-filed on 3/21/08). This objection is based on the same facts as our previous objections in 2008. Therefore, unless USACM Trust agrees in writing that it will allow the final claim to be adjusted (i.e. increased or reduced) after all loans are resolved, we respectfully ask the court to EITHER:

- Dismiss the motion, OR
- Delay the final claim adjustment ruling until the actual damage is known, OR
- Rule that the final claim must be adjusted (i.e. increased or reduced) at a later time, if the actual damage should turn out to be higher or lower than originally estimated.

To reduce future administrative burdens and legal fees, we also respectfully ask the court to decide on this issue as a matter of principle that applies to all similar cases rather than ruling on the issue on a loan by loan basis.

Dated: 1/15/10



Voss Family Trust
Wolf D. & Claudia Voss
14 Via Ambra
Newport Beach, CA 92657

Attachment: Document # 6038, e-filed on 3/21/08

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ATTACHMENT Doc # 6038

E-Filed on 3/21/08

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,¹

USA SECURITIES, LLC,²

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR¹
Case No. BK-S-06-10729-LBR²

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**WITHDRAWAL OF THIRD
OMNIBUS OBJECTION TO
PROOFS OF CLAIM BASED UPON
INVESTMENT IN THE ASHBY
FINANCIAL COMPANY \$7,200,000
LOAN AS IT RELATES TO CLAIM
NO. 10725-01653 OF THE VOSS
FAMILY TRUST CLAIM ONLY**

Date of Hearing: March 25, 2008
Time of Hearing: 9:30 a.m.

The USACM Liquidating Trust ("USACM Trust") withdraws its Third Omnibus Objection to Proofs of Claim Based, in Whole or in Part, Upon Investment in the Ashby Financial Company \$7,200,000 Loan (the "Ashby Loan") (the "Objection") [DE 5817] as it relates to Proof of Claim No. 10725-01653 filed by the Voss Family Trust. On

¹ This bankruptcy case was closed on October 12, 2007.

² This bankruptcy case was closed on December 26, 2007.

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1 March 14, 2008, the Voss Family Trust filed a response to the Objection [DE 6006], which
2 clarifies that the Voss Family Trust has "been paid back in full" for its investment in the
3 Ashby Loan and, therefore, the Voss Family Trust's claim is not based to any extent upon
4 an investment in the Ashby Loan. Accordingly, the USACM Trust will adjust its records
5 and withdraw the Objection to the extent it relates to the Voss Family Trust's Claim.

6 Dated: March 21, 2008.

7 LEWIS AND ROCA LLP

8
9 By /s/ Rob Charles (#6593)

10 Susan M. Freeman, AZ 4199 (*pro hac vice*)

11 Rob Charles, NV 6593

12 John C. Hinderaker, AZ 18024 (*pro hac vice*)

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18 Attorneys for the USACM Liquidating Trust

19 COPY of the foregoing served via e-mail this
20 21st day of March, 2008 addressed to:

21 Voss Family Trust

22 Dated 10/4/ 99

23 Wolf D. and Claudia Voss, Trustees

24 14 Via Ambra

25 Newport Beach, CA 92657

26 cplusalii@cox.net

/s/ Renee L. Creswell

Renee L. Creswell

Miscellaneous:

06-10725-lbr USA COMMERCIAL MORTGAGE COMPANY

U.S. Bankruptcy Court

District of Nevada

Notice of Electronic Filing

The following transaction was received from CHARLES, ROB entered on 3/21/2008 at 9:48 AM PDT and filed on 3/21/2008

Case Name: USA COMMERCIAL MORTGAGE COMPANY

Case Number: 06-10725-lbr

Document Number: 6038

Docket Text:

Withdrawal of Third Omnibus Objection to Proofs of Claim Based Upon Investment in the Ashby Financial Company \$7,200,000 Loan as it Relates to Claim No. 10725-01653 of the Voss Family Trust Claim Only Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST (Related document(s)[5817] Objection to Claim, filed by Interested Party USACM LIQUIDATING TRUST, [6006] Objection filed by Interested Party VOSS FAMILY TRUST) (CHARLES, ROB)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:H:\Make PDF\withdrawal.pdf

Electronic document Stamp:

[Stamp bkecfStamp_ID=989277954 [Date=3/21/2008] [FileNumber=9507916-0]
[dc8d2cbdd424d734d817438120637e2847905e1c4236b4408a4ed216261a3f76d4b7
6526851e211e253092648e74d466f2c4ce06ad9f78e513dd89222b90ba54]]

06-10725-lbr Notice will be electronically mailed to:

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